

Examine Interview Sessions: Ieng Sary Team
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In at least 12 cases, Khmer Rouge tribunal investigators interviewed witnesses off the record, raising concerns over the reliability of their testimony and the intentions of the Office of the Co-Investigating Judges (OCIJ), the defence for Ieng Sary said this weekend.

Lawyers for Sary, who have repeatedly sought to shed light on the practice, on Friday filed a request for a public hearing on “the OCIJ’s widespread and systematic practice of conducting unrecorded interviews with witnesses”.

In motions and in court, defence teams have drawn attention in recent months to the revelation that some witnesses were interviewed off-record by investigators before returning to hold “official” interviews. Doing so, they contend, is a violation of the court’s internal rules, which stipulate that a written record be made of every interview.

The Sary team has been especially forceful, contending in a number of filings that the practice is not only a violation of the court’s internal rules, but a grave breach of fair trial rights.

The request for a public hearing is the strongest motion yet, noting that, in addition to the four cases over which defence teams have already sought clarification, 12 other instances of unrecorded witness interviews have been found.

In an email, lead co-lawyer Michael Karnavas said the number was likely far higher than that which had been uncovered thus far. “In total thus far we have come across around 20 questionable interviews; we suspect there are lots more.”

The widespread nature of the practice, lawyers argue in the filing, demonstrates it “was not an aberration from the OCIJ’s normal investigative procedure, but was in fact a widespread and systematic practice”.

In the filing, the defence team outline the investigators’ routine, noting that they frequently met “informally” with witnesses before holding official interviews in which the records insinuate both parties are meeting for the first time.